

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF OHIO  
 WESTERN DIVISION

DARLINGTON AMADASU,	:	Case No. C-1-01-210
	:	
Plaintiff,	:	Judge Dlott
	:	
v.	:	Magistrate Judge Black
	:	
JAMES R. DONOVAN, M.D., <i>et al.</i>	:	<b>MEMORANDUM OF THE OHIO</b>
	:	<b>DEFENDANTS IN OPPOSITION TO</b>
Defendants.	:	<b>PLAINTIFF'S MOTION TO</b>
	:	<b><u>STRIKE</u></b>

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The Reply Memorandum of the Ohio Defendants in support of their motion to dismiss was timely filed, and Plaintiff's motion to strike (Doc. 90) is baseless. Plaintiff served his opposition brief to the Ohio Defendants' motion to dismiss on December 20, 2004. (Doc. 88). Under Local Rule 7.2(a)(2), the Ohio Defendants had 11 days thereafter to file their reply. The 11th day fell on December 31, 2004, a date on which the Clerk's office for the Southern District of Ohio was closed as a designated holiday. (See attached memorandum from the Clerk's office) The Ohio Defendants filed their reply brief on January 3, 2005.

Further, December 31, 2004 was observed as an official holiday by the State of Ohio. Ohio Revised Code § 124.19, which governs personnel matters for the Ohio Department of Administrative services, provides in relevant part that "[s]tate holidays shall be the first day of January . . ." In turn, Ohio Revised Code § 124.18 provides that: "If any of the holidays declared in section 124.19 of the Revised Code falls on Saturday, the Friday immediately preceding shall be observed as the holiday." Such was the case with January 1, 2005, making December 31, 2004 an official holiday in Ohio.

Under Rule 6 of the Federal Rules of Civil Procedure, the term "legal holiday" explicitly includes any day appointed as a holiday "by the state in which the district court is held." Fed. R.

Civ. P. 6(a). The due date for the Ohio Defendants' reply memorandum thus rolled to the following Monday -- January 3, 2005 -- pursuant to Rule 6, and that is when it was filed.

All of this information was readily available to Plaintiff. Instead of investigating it or contacting counsel for the Ohio Defendants, he filed a motion to strike that serves only to harass the Ohio Defendants and cause still more needless increase in the cost of this litigation that he initiated. Plaintiff's motion to strike is frivolous and should be denied.

Respectfully submitted,

By: /s/ Justin D. Flamm  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served copies of the foregoing upon Darlington Amadasu, Plaintiff Pro Se, at P.O. Box 6263, Cincinnati, Ohio 45206, and upon Ramiro Canales, counsel for Claudia Miller, Roger Perales, and the University of Texas Health Science Center at San Antonio, at Assistant Attorney General for the State of Texas, General Litigation Division, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548, via regular United States mail, postage prepaid, this 7th day of January, 2005.

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